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MICHAEL BEST & FRIEDRICH, LLP 100 E WISCONSIN AVENUE MILWAUKEE, WI 53202			FLORES SANCHEZ, OMAR	
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 52804

Application Number: 09/892,096
Filing Date: June 26, 2001
Appellant(s): BEDNAR ET AL.

Edward R. Lawson
For Appellant

EXAMINER'S ANSWER

MAILED
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GROUP 3700

This is in response to the appeal brief filed 02/19/04.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is not correct, because claims 13, 14 and 27 now are allowable. The examiner agrees that the combination of Palm and McCurry et al. regarding claims 13-14 and 27 is not proper. For the above reasons, the rejection is withdrawn and claims 13-14 and 27 are allowable over the prior art.

(4) *Status of Amendments After Final*

No amendment after final has been filed. The status of the previous allowance is claim 28-30, instead of Applicant's recited 38-30.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is not correct, because claims 13, 14 and 27 now are allowable.

(7) *Grouping of Claims*

Appellant's brief includes a statement that claims Group I (claims 2-3 and 5-7), Group II (claims 10-12) and Group V (claim 23-24) do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8). Groups III, IV and VI are no longer relevant since claims 13, 14 and 27 are allowable.

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

5,007,172	Palm	02-2003
5,987,758	McCurry et al.	11-1999

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 2-3, 5-7, 10-12 and 23-24 stand rejected under 35 U.S.C. 103(a). Palm discloses (Fig. 1-6) the invention including a housing (12 and 24) having a first grip surface and a second grip surface, a motor 14, a spindle 26, a drive mechanism (see col. 1, line 67-68), a shoe 32. A shoe support 30, a lever 52, locking assembly including a locking member 48, said locking member having a first end 54 and a second end (see Fig. 4), a plurality of teeth (Fig.5), a retainer member 22 supported by the housing 24 and a channel 28. In regards to claim 7 and 23, Palm does not show the lever engaging the second end of the locking member. However, McCurry teaches the use of a lever 44 engaging the first and second ends of the locking member (70 and 72) for the purpose of providing a quick release device that can be used by a left or right handed operator and for the purpose of reducing the load in one end by distributing the load at the two ends, thus creating a more stiff joint and facilitating the movement of the lever. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to modified Palm's lever by providing the lever as taught by McCurry in order to obtain a quick release device that can be used by a left and right handed operator and to reduce the load in one end by distributing the load at the two ends, thus creating a more stiff joint and facilitating the movement of the lever. Also, if housing (boot) 24 is interpreted not to be a housing, then the

gear case 22 could be considered a housing having a retainer member (the walls that form the channel 28, see Fig. 5).

(11) Response to Argument

Appellant argues that Palm lacks “a locking assembly”, “locking member having a first end and a second end”, “a lever engaging the first end and a second end of the locking member”. The examiner disagrees for the following reasons. First, it should be noted by the board that the Office Action mailed on 11/14/03 indicates that Palm teaches the locking member 48, a first end 54 and a second end, and only Palm does not show the lever engaging the second end of the locking member.

Now turning to the applied art, McCurry et al. disclose a lever 44 engaging the first and second ends of the locking member (70 and 72)(see Fig. 2-3) for locking the blade 100 in place in the channel 82. Additionally, it should be noted that both levers in Palm and McCurry are analogous art for locking a member into a channel. The examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. *See In Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation can be found in the knowledge generally available to one of ordinary skill in the art that provide a quick release device that can be use for left and right hand operator and to reduce the load in one end by distributing the load at the two ends, thus creating a more stiff joint and facilitating the movement of the lever.

Appellant argues claims 10-12, stating that the gear case 22 of Palm is not analogous to the retainer member cited on claim 10. However, appellant admits (page 10, line 14-15) that “the

gear case 22 is provided with a hole which receives the post 30 of the shoe 32", which is same function of the retainer member cited in claim 10. It is irrelevant if the gear case has a double function, because it is analogous to the retainer member because it performs the same function. For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Omar Flores Sanchez
June 1, 2004



Conferees
Kenneth Peterson (Expert Primary Examiner)



KENNETH E. PETERSON
PRIMARY EXAMINER

Conferees
Allan Shoap (SPE 3700)



Conferees
Greg Vidovich (SPE 3700)



MICHAEL BEST & FRIEDRICH, LLP
100 E WISCONSIN AVENUE
MILWAUKEE, WI 53202